IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1868 OF 2005

Rajendra Vaman Waghmare . .. Petitioner.

vs.

Brihanmumbai Municipal

Corporation and Ors. .. Respondents.

Mr. M.P. Vashi i/by M.P. Vashi & Associates

for petitioner.

Mrs. Varsha Palav for respondents.

CORAM : S.U. KAMDAR, J.

DATE : 6th December, 2005.

P.C.:

. The present petition challenges the order dated 18.1.2005 passed in Misc. Notice No. 324 of 2004. By the said notice the petitioner has sought that the ex-parte dismissal order of the election petition be set aside and the matter be heard on merits. The main challenge to the election of the respondent no. 3 is on the ground that the respondent no. 3 does not have a valid caste certificate. It is the case of the petitioner that the Caste Scrutiny Committee has set aside the caste

certificate which was relied UNO by the respondent no. 3 for being elected on the post of the Corporator in the Corporation. The learned counsel appearing for respondent no. 3 however states that the petition challenging the caste validity certificate has already been admitted by this Court. In the aforesaid circumstances, it is necessary that the election petition be heard on record. There is undoubtedly a default on the part of the petitioner for non-appearance on the due date. However, in the interest of justice, I am of the opinion that the following should be passed.

> The order dated 18.1.2005 is set aside. The petitioner is directed to pay costs quantified at Rs. 7500/- to the Maharashtra State Legal Services Authority. The learned Addl. Chief Judge of Small Causes Court is directed to hear and dispose of the main matter on or before 31.3.2006. The Election Petition to be disposed of irrespective of the pending writ petition in this Court.

2. Petition disposed of accordingly. No order as to costs.